

Exhibit No. 11Date 3-3-09

Bill No. _____

Joint Position on Federal Stimulus Funding

Adopted on March 2, 2009 By:



Montana School Boards Association

AA Caucus

Montana Rural Education Association



School Administrators of Montana

**MONTANA**
Small Schools Alliance

Montana Small School Alliance



Montana Association of School Business Officials

Introduction

As the Executive and Legislative branches consider how to compute and allocate the general stabilization funds from the recently passed American Recovery and Reinvestment Act of 2009 (ARRA), the above-referenced K-12 public education advocates offer our collective assistance in ensuring that the funds will be put to the best use possible. We have discussed and reached consensus on priorities in this regard, with a focus on funding that will:

1. Provide needed resources to fund educational services to foster student success.
2. Fill critical needs in our public schools;
3. Save jobs that would otherwise be lost in the public schools of Montana;
4. Allow schools to modernize, repair and renovate their schools to ensure the continued value of the taxpayers' investment in such facilities and produce future tax savings that would otherwise be spent on such projects; and
5. Provide a needed boost to the construction industry by putting crews to work on shovel-ready projects throughout the state that have been assessed and identified as necessary by the School Facility Condition Assessments conducted over the last three years by the Montana Department of Administration.

Recommendations

The following represents our recommendations on how to best allocate the state fiscal stabilization funds under ARRA:

1. **Estimated Totals:** Under Title XIV of ARRA, Congress has created a state stabilization fund. Montana's anticipated allocation is estimated by the U.S. Department of Education to be approximately \$149,356,000. Under Section 14002(a)(1), 81.8%, or \$121,628,250 of the state's allocation under the state stabilization fund is to be allocated by the state for the support of

elementary, secondary and postsecondary education, and, as applicable, early childhood education programs and services.

2. **Using Stimulus Funds to Stimulate the Economy:** In order to play a positive role in helping mend Montana's economy, school districts need the flexibility to use ARRA funds on top of the funds already committed for FY10 and FY11 in the Governor's funding proposal. Many school districts are anticipating budget cuts under the Governor's funding proposal and need ARRA funds to help fill in the gaps. As such, we oppose use of ARRA funds to supplant existing funding commitments of the state of Montana as reflected in the Governor's proposed budget.
3. **Section 14002 State Uses of ARRA Funds:** Section 14002 of ARRA provides a very specific procedure for determining the allocation of general stabilization funds under ARRA. Specific ground rules include the following:
 - a. Under section 14002(2)(A)(i)(I), ARRA requires that the funds first be used to restore, in each of fiscal years 2009, 2010 and 2011, the level of State support provided through the state's primary elementary and secondary funding formulae in the greater of fiscal year 2008 or 2009. We have reviewed state funding levels from FY08 and FY09 (as appropriated) and compared those to FY10 and FY11 (as proposed in the Governor's budget), and have identified a shortfall of \$29,976,150 in FY09, FY10 and FY11 compared to state funding levels for K-12 public education in FY08:

Category	FY08	FY09	FY10	FY11
Total State Funding Levels (Ongoing and OTO)	\$730,116,818	\$708,091,857	\$722,165,629	\$738,946,385
Difference/Shortfall Compared to FY08	Base Year	(\$22,024,961)	(\$7,951,189)	\$8,829,567

We have included onetime only funds distributed in FY08 in light of the State's recent success in defending the use of one-time-only funds as part of its overall school funding formula (see finding 60 of Judge Sherlock in *Columbia Falls Elementary v. State* decision, acknowledging that one-time-only funds are part of the state's overall funding formula).

Recommendation: Of the approximate \$121.6 million allocated to K-12, Higher Education and Early Childhood Development, \$29.9 million should first be allocated to K-12 public education pursuant to section 14002(2)(A)(i)(I) of ARRA.

- b. Under section 14002(2)(A)(i)(II), ARRA requires that after stimulus funds have been used to restore funding levels to the greater of FY08 or FY09, stimulus funds are to be next used "to allow existing State formulae increases to support elementary and secondary

education for fiscal years 2010 and 2011 to be implemented . . . if such increases were enacted pursuant to State law prior to October 1, 2008. In Montana, the present law adjustments included in the Governor's budget proposal for 2010 and 2011 have been calculated pursuant to 20-9-326, which was enacted by the Montana Legislature effective July 1, 2003. Section 20-9-326, MCA, requires the incorporation of the calculated increases in the Governor's budget, so a strong argument can be made that such increases were enacted prior to October 1, 2008 by virtue of the law's requirement that such increases be incorporated into the executive budget proposal. The fiscal note on House Bill 15 identifies a \$48.6 million cost in the 2011 biennium.

Recommendation: Of the \$92 million in stimulus money left after use of \$29.9 million to restore funding to FY08 levels, we recommend use of \$48.6 million to pay for the adjustments in House Bill 15, thereby freeing up \$48.6 million to be redistributed to K-12 public schools.

With regard to both of the suggested uses and distributions above, we recommend that the Legislative and Executive branches should recommit the entire amounts to K-12 public education, through a balanced and equitable distribution of resources among our K-12 public schools that is responsive to the unique needs of all school districts throughout the state.

4. **Allocation of Funds Remaining After Restoration of K-12 and Higher Ed and Implementation of Adequacy Adjustments Enacted Prior to October 1, 2008:** There is a separate provision in ARRA that requires that stimulus funds be used to restore Higher Education to the greater of FY08 or FY09 funding levels in FY09, FY10 and FY11 and the Legislature will need to calculate and distribute amounts to Higher Education under that provision. Any amounts remaining after addressing the ARRA priorities above must be distributed to school districts in "subgrants based on their relative shares of funding under part A of Title I" as required in ARRA section 14002(3).
5. **K-12 Schools' Readiness to Use the Stimulus Funds to Improve Montana's Economy:** K-12 public schools throughout Montana stand ready to commit the stimulus funds to improve Montana's economy, as follows:
 - a. There are budget cuts on the immediate horizon that will lead to staff reductions without relief above and beyond the amounts included in the Governor's funding proposal. From FY08 to FY09, Montana school districts reduced their certified staff by approximately 90 FTE, along with another 45 or so classified staff. Without ARRA funds to mitigate this trend, 300 additional jobs could easily be lost over the coming two years. With stimulus funds, school districts can save these jobs that will otherwise be lost.
 - b. Section 14003 provides that a school district that receives funding under the federal stimulus bill may use the funds for a variety of purposes, including "any activity

authorized by the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) (“ESEA”), the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) (“IDEA”), the Adult and Family Literacy Act (20 U.S.C. 1400 et seq.), or the Carl D Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.) (“the Perkins Act”) or for ***modernization, renovation, or repair of public school facilities . . .***” The State of Montana has recently completed a comprehensive survey of school facilities and has identified approximately \$340 million in repairs needed across the state to bring school facilities up to the code applicable at the time the facility was constructed. Many of these repairs are “shovel ready”, having been analyzed by local trustees, validated by the facilities survey and waiting only for a funding stream to move forward. Many school districts will be using stimulus funds under ARRA to modernize, renovate and repair school facilities and their use of such funds will help provide a needed shot in the arm to the flagging construction industry in Montana.

Summary:

The organizations collaborating in crafting this position statement are very appreciative of the efforts of the Obama Administration and Congress in crafting and supporting a stimulus package that has the potential to help Montana’s public schools in avoiding significant budget cuts over the coming two years. It is now in the capable hands of our state leaders, including both the Executive and Legislative branches, to realize that potential in a manner that best fits the needs of the children served in our public schools. By carefully considering the guidance we have provided above, we are confident that you will reach the right decisions regarding how to best allocate the general stabilization funds in a manner that will maximize the positive impact on the state of Montana. Thank you for your efforts on behalf of Montana’s public schools.